Court No.2

Writ Petition No. 316 (M/B) of 2002
Ram Kumar Verma ..... Petitioner

Versus

State Urban Development Agency
---------- Respondents

Hon. P.C. Verma, A.C.J.
Hon. Irshad Hussain, J.

Heard Sri Alok Singh, learned counsel for the petitioner, Mrs. Tahmina Punwani and Sri Pankaj Miglani for the respondents.

This writ petition has been filed by the petitioner challenging the order dated 06.04.2002, by which recovery of Rs.1,24,341/- has been issued and the petitioner has been directed to deposit the said amount on the ground that the State Government suffered a loss of the aforesaid amount due to inaction on the part of the petitioner as he was Assistant Project Officer at the relevant time and did not encaseh 471 Kishan Vikas Patras at the time of their maturity, which matured in August,11997 and were encashed in December,1999. There was delay in the encashment for about 2 years and three months. On account of the non transfer of the said amount to the bank, the Government suffered a loss of interest at simple rate worth Rs. 1,05,975/-. Likewise, 116 Kishan Vikas Patras matured for encashment on 30.4.1998 and were not encashed on the date they were matured. They were encashed after one year and seven months and on account of non-transfer of the said amount to the account of the State Urban Development Agency, the Government has suffered a loss of interest Rs.18,366/-. There was total loss of Rs.1,24,341/- to the State Government.

All the respondents have filed their respective counter affidavits. Alongwith counter affidavit filed by the respondent no.4 and 5, letter dated 4.9.1997 has been annexed as Annexure C.A.2, which is letter written by the Executive Officer in whose favour the Kishan Vikas Patras were pledged, to the Post Master, Sub-Post Office, Mayapur, Haridwar, requesting him to encash 471 Kishan Vikas Patras of Rs.1000/-each immediately after 31.8.1997, when the Kishan Vikas Patras were matured for encashment.

It is further revealed from the letter that all the 471 Kishan Vikas Patras were submitted to the Post Officer for encashment. Thus, the Executive Officer, Nagar palika, Haridwar, took proper steps for encashment of the matured Kishav Vikas Patras. Officials of the post office slept over the matter and it was on 24.2.1998, Deputy Post Master, Mayapur, Haridwar, sought permission from Head Post Office Roorkee for release of the said amount. These documents clearly establish that the cause of delay was not inaction on the part of the petitioner. Rather, the delay occurred due to slackness of the officials of the post office, for which the petitioner can not be held responsible. Therefore, factual basis by which the petitioner has been held responsible is not correct. The authority which has passed the impugned order, did not apply his mind. The records of the State Urban Development Agency and Municipal Board clearly establish that the Kishan Vikas Patras were submitted to the post office soon after they were matured for encashment. It was the lapse on the part of the postal authorities, which caused loss to the State Government. Therefore, the order impugned suffers from non application of mind and can not be sustained. Accordingly, a writ of certiorari is issued and the order dated 6.4.2002 passed by the respondent no.1 contained in annexure 12 to the writ petition is hereby quashed.

It is further provided that entire salary of the petitioner, if due, shall be released in accordance with rules.

Writ petition is allowed. No order as to costs.

(P.C. Verma, A.C.J.) **(Irshad Hussain, J.)**

Dt. 16.07.2003

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